IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Crl.MC.No. 1679 of 2007()

CC.484/2006 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR

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PETITIONER/ACCUSED:

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1. JOBY, S/O GEORGE, PARATHODIYIL HOUSE,
   EDAKUNNI VILLAGE, THALORE DESOM, THRISSUR DISTRICT

2. P.T.GEORGE, S/O THOMAS,
   PARATHODIYIL HOUSE, EDAKUNNI VILLAGE,
   THALORE DESOM, THRISSUR DIST.

3. EMILIS GEORGE, W/O P.T.GEORGE,
   PARATHOIDYIL HOUSE, EDAKUNNI VILLAGE,
   THALORE DESOM, THRISSUR DIST.

4. DEEPA, W/O CIBU, CHALISSERY HOUSE,
   NENMANIKARA VILLAGE, THALORE DESOM,
   THRISSUR DIST.

5. HANEY, W/O VINOD, PALAYEER HOUSE,
   CHEMBUKAVU VILLAGE, NELLIKUNNU DESOM,
   THRISSUR DISTRICT.

BY ADV. SRI.N.P.SAMUEL

RESPONDENTS/COMPLAINANTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.
   (SUB INSPECTOR OF POLICE, ETTUMANOOR)

2. RENJINI JACOB, D/O JACOB,
   PONNATTIL HOUSE, ATHIRAMPUZHA VILLAGE,
   KOTTAYAM TALUK, KOTTAYAM DISTRICT.

BY ADV. SMT.P.K.MAYA DEVI
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1679 of 2007

Dated this the 25th day of June 2007

O R D E R

The petitioners face indictment in a prosecution for the offence punishable under Section 498A read with 34 I.P.C. They are the husband, father-in-law, mother-in-law and sisters-in-law respectively of the defacto complainant, the second respondent herein. The crux of the allegations is that the petitioners were guilty of matrimonial cruelty against the second respondent. Cognizance has been taken. The case is pending before the Judicial First Class Magistrate Court, Ettumanoor as C.C.No.484/2006. The petitioners and the second respondent have now come before this court to make the joint request that the proceedings initiated against the petitioners may be quashed invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes. Marital tie has now been dissolved. Parties are residing separately. In these circumstances, the unnecessary continuance of the criminal prosecution against the petitioners is an avoidable irritant in their relationship and in

these circumstances, it is prayed that premature termination of the prosecution may be brought about by invoking the powers under Section 482 Cr.P.C.

2. The second respondent has entered appearance through counsel. An affidavit duly attested has been filed by the second respondent. The affidavit shows that the matter has been settled between the parties. The learned counsel for the second respondent vouches for the signature of the second respondent in the affidavit. I am satisfied that the parties have settled their disputes amicably and harmoniously. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

3. However, the offence under Section 498A I.P.C is not compoundable. The learned counsel, in these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that notwithstanding the provisions of Section 320 Cr.P.C, the powers under Section 482 Cr.P.C can be invoked to bring about premature termination of such prosecution.

4. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked to bring to premature termination the proceedings against the petitioner initiated by the second respondent.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.484/2006 pending before the Judicial First Class Magistrate Court, Ettumanoor shall stand quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007